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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Donald Allbaugh, on behalf of himself and all  
others similarly situated

Plaintiffs,

v.

California Field Ironworkers Pension Trust;  
Board of Trustees of the California Field  
Ironworkers Pension Trust, Plan Administrator  
of the California Field Ironworkers Pension  
Trust,

Defendants.

Case No.: 2:12-cv-00561-GMN-GWF

STIPULATED CONFIDENTIALITY  
ORDER

Pursuant to Fed.R.Civ.P. 26(c), Plaintiff Donald Allbaugh by and through undersigned  
counsel and Defendants California Ironworkers Field Pension Trust, and Board of Trustees of the

1 California Ironworkers Field Pension Trust, Plan Administrator of the California Ironworkers  
2 Field Pension Trust by and through undersigned counsel hereby stipulate and request that the  
3 Court enter the following protective order to protect the personal and confidential information of  
4 individuals whose benefit information may be disclosed in discovery in this action.

5 **STIPULATION**

6 1. Proceedings and Information Governed. This Stipulation, and Court's Order  
7 thereon, will govern any document, information, or other thing furnished or produced by any  
8 party to this action, including by plaintiff Donald Allbaugh ("Plaintiff"), and Defendants  
9 California Ironworkers Field Pension Trust, and Board of Trustees of the California Ironworkers  
10 Field Pension Trust, Plan Administrator of the California Field Ironworkers Field Pension Trust  
11 (collectively "Defendants"), and by third parties, to any other party in connection with this  
12 action, including Plaintiff or Defendants, which may be produced in this action and designated  
13 by the producing party as "Confidential" information or material as defined below. The  
14 information that may be designated "Confidential" includes, but is not limited to, information  
15 produced in connection with Federal Rule of Civil Procedure 26, information contained in  
16 responses to demands for identification and production of documents or other things; responses  
17 to special interrogatories; deposition testimony and exhibits, including any documents or other  
18 information or materials that may be produced prior, or subsequent, to any depositions; and all  
19 copies, extracts, summaries, compilations, designations, and portions of the foregoing.

20 2. "Confidential" Information or Material Defined. For purposes of this Stipulation,  
21 and Court's Order thereon, "Confidential" information or material will mean all information or  
22 material that:

23 a. Is produced for or disclosed to a receiving party (Plaintiff or Defendants);  
24 and

25 b. A party (Plaintiff or Defendants) reasonably and in good faith believes to  
26 constitute or contain Personal Information, trade secrets or otherwise constitutes business  
27 proprietary and/or confidential material, or other confidential research, development, or  
28 commercial information, whether embodied in physical objects, documents, or other factual

1 knowledge of persons, and specifically shall include but not necessarily be limited to, financial  
2 data, consumer surveys, marketing studies, databases of business contacts, databases of business  
3 document templates, policies, procedures, rules and regulations, bulletins, memoranda, training  
4 materials, and any and all writings reflecting same. "Personal Information" means sensitive  
5 personal information about an individual, including but not limited to such information as  
6 medical information, date of birth, home address, social-security number, taxpayer identification  
7 number, financial account and/or brokerage account numbers, mother's maiden name, racial or  
8 ethnic origin, social security numbers, and/or benefit calculation information relating to  
9 compensation and the amount of benefit; and

10 c. Has been designated as "Confidential" information or material by a  
11 producing party in compliance with Paragraph 3 of this Stipulation, and Court's Order thereon,  
12 and in advance of its production.

13 3. Designation of "Confidential" Information or Material. Any party may designate  
14 "Confidential" information or material by stamping or affixing to the physical objects,  
15 documents, discovery responses, or deposition transcripts a stamp or other inscription that states:  
16 "Confidential."

17 For written material, documents, or other tangible items, the designation of any particular  
18 page of written material shall mean that all information contained on that page is designated  
19 "Confidential" unless otherwise indicated. To the extent possible, such designation shall be  
20 made so as not to interfere with the content of any such written material.

21 In the event that a Producing Party produces files and records in electronic form, the  
22 Producing Party shall simultaneously provide a schedule of such files and records containing a  
23 designation of those which contain Confidential Information. In the event that any such files or  
24 records are thereafter printed out in hard copy by the receiving party, the receiving party shall  
25 mark those documents printed with a label or other method of designation consistent with the  
26 documents' status with this Stipulation and Court's Order thereon.

27 For information not reduced to written material, document, or other tangible item, or  
28 information that can not be conveniently designated as set forth in this paragraph, any party may

1 designate the confidential information by giving written notice to the receiving party at the time  
2 the confidential information is produced. The written notice must clearly identify that part of the  
3 information being produced that is designated as “Confidential.”

4 4. Party’s Own Information. The restrictions on the use of “Confidential”  
5 information or material established by this Stipulation, and Court’s Order thereon, apply only to  
6 the use by a party of “Confidential” information or material received from another party to this  
7 action, or from a non-party to this action, and shall not apply to the use by a party of her/its own  
8 information.

9 5. Persons Authorized to Receive Confidential Information and Material. For  
10 purposes of this Stipulation, and Court’s Order thereon, the term “qualified recipient” of  
11 information and material that has been designated pursuant to the terms of this Stipulation, and  
12 Court’s Order thereon, shall mean:

13 (a) The named parties to this action, including officers, directors, insurers, and  
14 other employees of the party to whom disclosure of confidential information is deemed  
15 necessary by that party for purposes of this action only;

16 (b) The attorneys of record in this action, attorneys employed in-house by or  
17 on behalf of the parties, any attorneys retained by the parties in this action to consult on the  
18 litigation, their respective partners, associates, clerks, legal assistants, secretaries, and  
19 stenographic and support personnel, and such other persons retained by such attorneys to provide  
20 litigation support services in this action;

21 (c) Any persons to whom the Court in this action orders that disclosures may  
22 be made.

23 (d) Any other person with prior written consent of the designating party.

24 (e) Outside experts and consultants retained for the purpose of assisting in the  
25 preparation of this action or for the purpose of testifying by deposition or at the trial of this  
26 matter; provided, however, that prior to disclosing any Confidential Material to any such expert  
27 or consultant, the party intending to disclose shall obtain from each such person his or her  
28 signature to this Order agreeing to be bound by the provisions of this Stipulation and Court’s

1 Order thereon. An original of each such consent agreement executed pursuant to this paragraph  
2 is to be retained by counsel of record for the party intending to disclose the Confidential  
3 Material; and

4 (f) The participant, retiree or beneficiary or their authorized representatives  
5 may review their own Personal Information designated as confidential information.

6 Each person to whom disclosure of confidential information is made agrees to be subject  
7 to the jurisdiction of this Court solely for purposes of proceedings relating to that person's  
8 performance under, compliance with, or violation of any Order entered by this Court in  
9 connection with this Stipulation, and Court's Order thereon.

10 6. Challenges to and Removal of "Confidential" Designation. Nothing in this  
11 Stipulation, and Court's Order thereon, shall preclude any party from challenging a designation  
12 of any information or material as "Confidential" by any party. If designated by a party as  
13 "Confidential," information and material will be so treated for all purposes, and shall continue to  
14 be treated as "Confidential" unless and until the Court rules to the contrary.

15 Any party may challenge or object to the designation as "Confidential" of any  
16 information and material and/or seek removal of particular items of "Confidential" information  
17 or material by giving counsel for all other parties written notice of her/ its intent to seek  
18 removal on or before the date the final pretrial disclosures are due, , which notice shall specify the  
19 items of "Confidential" information and material for which removal is sought. The written  
20 notice shall have attached a copy of such designated material or shall identify each subject  
21 document by production number or deposition page and shall state that the receiving party  
22 objects to the designation. Counsel for the objecting party shall then initiate a conference in  
23 good faith in an effort to resolve any dispute concerning such designation. Counsel for the  
24 designating party shall have fourteen (14) days from the date of service of the objection to  
25 provide any reasons for justifying the designation.

26 If the objection cannot be resolved by agreement within twenty-one (21) days of the date  
27 of service of the objection, the party objecting to the "Confidential" designation, may make a  
28 motion to the Court, subject to the rules applicable to motions generally, to declassify such

1 information. No party to the action shall be deemed by treating information and/or material as  
2 “Confidential” to have conceded that the information actually is “Confidential,” however, the  
3 party claiming classification of any information designated as “Confidential,” shall have the  
4 burdens of proof and persuasion on said issue.

5 For purposes of this Stipulation, and Court’s Order thereon, “receipt” of an objection  
6 made pursuant to this paragraph shall mean on completion of transmission, if service is made by  
7 facsimile, on delivery, if service is made personally, two days after mailing, if service is made by  
8 express mail or other means of overnight delivery, and three days after the date of mailing, if  
9 service is made by regular mail.

10 7. Use of “Confidential” Information or Material. Any information or material  
11 designated as “Confidential” will be handled by the receiving party in accordance with the terms  
12 of this Stipulation, and Court’s Order thereon. Any “Personal Information” or material  
13 exchanged with be handled and treated by the receiving party in accordance with the terms of the  
14 Stipulation, and the Court’s Order thereon. Information and material designated as  
15 “Confidential” will be held in confidence by the receiving party, will be used by each receiving  
16 party for purposes of this action and trial only and not for any business, competitive or other  
17 purpose unless agreed to in writing in advance by all parties to this action or as authorized by  
18 further Order of the Court, and will not be disclosed to, or the substance discussed with, any  
19 person who is not a qualified recipient.

20 8. Copies of “Confidential” Information or Material. Nothing in this Stipulation, or  
21 Court’s Order thereon, shall prevent or otherwise restrict a qualified recipient from making  
22 working copies, abstracts, summaries, digests and analyses of “Confidential” information or  
23 material for use in connection with this action. All working copies, abstracts, summaries, digests  
24 and analyses will also be considered “Confidential” under the terms of a Court’s Order  
25 approving this Stipulation.

26 9. Transmission of “Confidential” Information or Material. Nothing in this  
27 Stipulation, and Court’s Order thereon, shall prevent or otherwise restrict the transmission or  
28 communication of “Confidential” information or material between or among qualified recipients

1 of such material.

2 10. Sealing of Documents. Any party seeking to file with the court pleadings,  
3 motions, or other documents that contain or annex “Confidential” information or material is  
4 required to file a motion or application with the court to seal such records and to take whatever  
5 other and further steps are necessary and required by the Court to comply with the requirements  
6 of this paragraph and to file such pleadings, motions, or other documents under seal and in  
7 accordance with United States District Court, District of Nevada, Local Rule 10-5. This  
8 Stipulation, and Court’s Order thereon, is not intended to govern any trial in this action and any  
9 question concerning the admissibility or use of confidential information at trial shall be  
10 addressed by further Court Order.

11 11. Court Proceedings. Pleadings, motions, or other documents to be filed with the  
12 Court in this action that contain or annex “Confidential” information must be filed under seal and  
13 in accordance with Paragraph 10 to this Stipulation, and Court’s Order thereon. Any court  
14 hearing or other proceeding that refers to or describes “Confidential” information will be held in  
15 camera in the Court’s discretion.

16 12. Testimony. Notwithstanding any provision of this Stipulation, and Court’s Order  
17 thereon, to the contrary, any person may be examined as a witness at deposition and may testify  
18 concerning all “Confidential” information of which the person is the author, addressee or as to  
19 which the deposing party reasonably believes the person being examined has knowledge of the  
20 document. If the examination concerns “Confidential” information or material, the producing  
21 party will have the right to exclude from that portion of the deposition concerning the  
22 “Confidential” information or material any person other than the witness, the witness’s  
23 attorney(s), and qualified recipients of the “Confidential” information or material.

24 If the witness and/or his or her attorney is not a qualified recipient, then before the  
25 examination commences concerning “Confidential” material, the witness and his or her attorney  
26 each may be requested to provide written confirmation that he or she will comply with the terms  
27 of this Stipulation, and Court’s Order thereon, and maintain the confidentiality of the  
28 “Confidential” information or material disclosed during the course of the interview or

1 examination. If the witness and/or his or her attorney declines to provide written confirmation  
2 agreeing to the terms of the Stipulation, and Court's Order thereon, the producing party has the  
3 right to adjourn the examination to promptly seek a further protective order from the Court  
4 prohibiting the witness and/or his or her attorney from disclosing the "Confidential" information  
5 or material.

6 Any court reporter who takes down testimony in this action, through interview,  
7 examination, deposition or otherwise (collectively "deposition"), will be given a copy of this  
8 Stipulation, and Court's Order thereon, and may be required to agree on the transcript of the  
9 deposition, that he or she will not disclose any testimony and/or information revealed at the  
10 deposition, except to the attorneys of record for the parties in this action or to such other  
11 qualified recipients as the attorneys of record for the parties so designate in writing to the court  
12 reporter.

13 Unless the parties reach a different agreement prior to the deposition's conclusion, and  
14 upon request of any Party, the transcript, the original, and all copies of any deposition transcript,  
15 and exhibits, where confidential material was referenced or will be initially considered as a  
16 whole to constitute "Confidential" information subject to this Stipulation, and Court's Order  
17 thereon, and will be conspicuously marked as described below. The Party then has 20 days from  
18 receipt of the transcript from the court reporter to designate any pages of the deposition transcript  
19 or exhibits thereto as "Confidential." Any disputes over this designation, in whole or in part,  
20 will be resolved through the procedure and in accordance with the burden of proof designated in  
21 Paragraph 6, above, for challenges to the designation as "Confidential" information.

22 Once resolved, or if no challenge is made, the reporter will promptly conform the original  
23 transcript, and counsel will conform their copies of the transcript in accordance with the agreed-  
24 upon or resolved designation. The portions designated as "Confidential" will thereafter be bound  
25 in a separate booklet, conspicuously marked on the cover thereof with the words  
26 "CONFIDENTIAL - SUBJECT OF PROTECTIVE ORDER" and shall be treated as  
27 "Confidential" information or material subject to this Stipulation, and Court's Order thereon.

28 13. Attorneys' Actions. Nothing in this Stipulation, and Court's Order thereon, will



bar or otherwise restrict an attorney who is a qualified recipient from:

- (a) Rendering advice to his, her or its client with respect to this action; or
- (b) Generally referring to or relying on his or her examination of documents that have been produced under this Stipulation, and the Court's Order thereon, and that contain "Confidential" information.

14. No Waiver. The taking of, or the failure to take, any action to enforce the provisions of this Stipulation, and Court's Order thereon, or the failure to object to any designation or any such action or omission, will not constitute a waiver of any right to seek and obtain protection or relief, other than as specified in this Stipulation, and Court's Order thereon, of any claim or defense in this action or any other action, including but not limited to, any claim or defense that any information:

- (a) Is or is not relevant, material, or otherwise discoverable;
- (b) Is or is not confidential or proprietary to any party;
- (c) Is or is not entitled to particular protection; or
- (d) Embodies or does not embody trade secrets or confidential research, development, or commercial information of any party.

In making a claim or defense as set forth in this section 14, the party must comply with the procedures described in this Stipulation and the Court's Order thereon. This Stipulation, and Court's Order thereon, is entered without prejudice to the right of any party to apply to the Court at any time to modify the restrictions of any such Order, when convenience or necessity requires. The procedures set forth in this Stipulation, and Court's Order thereon, will not affect the rights of the parties to object to discovery on grounds other than those related to trade secrets or proprietary information claims, nor will they relieve a party of the necessity of proper response to discovery devices.

15. No Probative Value. This Stipulation, and Court's Order thereon, will not abrogate or diminish any contractual, statutory, or other legal obligation or right of any party or person with respect to any "Confidential" information or material. The fact that information or material has been designated as "Confidential" will not make it admissible during the trial of this

1 action, absent a stipulation by the parties or a ruling by the Court as to its admissibility. The fact  
2 that any information designated “Confidential” is or may be disclosed, used, or produced in  
3 discovery or at trial in this action will not prohibit any party from asserting all objections and  
4 privileges, that the information:

- 5 (a) Is or is not relevant, material, or otherwise admissible;
- 6 (b) Is or is not confidential or proprietary to any party;
- 7 (c) Is or is not entitled to particular protection; or
- 8 (d) Embodies or does not embody trade secrets or confidential research,  
9 development, or commercial information of any party.

10 Further, a party that receives material or information in this action that is designated as  
11 “Confidential” may not use that material or information in another legal proceeding or for any  
12 other purpose than litigating the instant action, absent written consent from the disclosing party.  
13 In addition, Counsel shall attempt to agree upon procedures to protect the confidentiality of  
14 Confidential Material at any hearing or trial and if Counsel deems it necessary, prior to such  
15 hearing or trial, Counsel shall submit proposed procedures, including any disputes relating  
16 thereto, to the Court for its approval or modification.

17 16. Return of Information and Materials. At the conclusion of this action, all  
18 “Confidential” information or material will, within thirty (30) days of written request of the party  
19 furnishing the information or materials, be delivered to the party that furnished the  
20 “Confidential” information and material. All “Confidential” information not embodied in  
21 written materials, documents, or tangible items will remain subject to this Stipulation, and  
22 Court’s Order thereon. For purposes of this paragraph, “conclusion of this action” shall mean, as  
23 to any party, the dismissal of that party from this action by Order of Court, whether by  
24 stipulation, Request for Dismissal, or other proceeding, or final judgment as against that party  
25 after expiration of all appellate rights or the time for any such appeal.

26 In the event that any deposition transcript marked “CONFIDENTIAL – SUBJECT OF  
27 PROTECTIVE ORDER” contains information or materials deemed confidential by more than  
28 one party, the transcript shall be returned to the party first making request for return of same.

1           17.    Subpoenaed Material. If at any time Confidential Material in a party's possession  
2 is subpoenaed or otherwise compelled, that party (the "Subpoenaed Party") shall immediately  
3 provide written notice to the Producing Party, and the Producing Party shall thereafter bear the  
4 responsibility for obtaining any order that it believes necessary to prevent disclosure of the  
5 Confidential Material. If the Producing Party does not file a motion seeking to protect the  
6 Confidential Material from disclosure, the Subpoenaed Party shall be free to produce the  
7 Confidential Material within fourteen (14) days of the written notice to the Producing Party.

8           18.    Court's Jurisdiction. The Court retains jurisdiction to make amendments,  
9 modifications, deletions, and additions to the Order approving this Stipulation as the Court from  
10 time to time considers appropriate. The provisions of this Stipulation, and Court's Order  
11 thereon, regarding the use or disclosure of information designated as "Confidential" information  
12 or material will survive the termination of this action, and the Court will retain jurisdiction with  
13 respect to this Stipulation, and Court's Order thereon.

14           18.    Notices. Any of the notice requirements in this Stipulation and the Court's Order  
15 entered thereon may be waived, in whole or in part, but only a writing signed by the attorney of  
16 record for the party against whom such waiver is sought will be effective.

17           19.    Amendments. The parties may amend this Stipulation, Court's Order thereon, in  
18 writing and may seek to have the amendments entered by the Court as part of its Order.


19           20.    Interpretation. This Stipulation has been negotiated at arm's length and between  
20 and among persons sophisticated and knowledgeable in the matters dealt with in this Stipulation.  
21 Accordingly, none of the parties hereto shall be entitled to have any provisions of the Stipulation  
22 construed against any of the other parties hereto in accordance with any rule of law, legal  
23 decision, or doctrine, such as the doctrine of contra proferentem, that would require  
24 interpretation of any ambiguities in this Stipulation against the party that has drafted it. The  
25 provisions of this Stipulation shall be interpreted in a reasonable manner to effect the purposes of  
26 the parties hereto and this Stipulation.

27           21.    Binding on all Parties/Extension to Non-Parties. This Stipulation, upon entry as  
28 an Order of the Court, shall bind the parties represented by the undersigned counsel, the parties'

1 agents, officers, directors, employees, and representatives who receive notice of this Stipulation,  
2 and Court's Order thereon, and all other parties who appear in this case during the course of this  
3 litigation. If non-parties produce documents and desire to have them produced under the terms  
4 of the Court's Order, the parties agree to meet and confer and, if unable to agree, the non-parties  
5 may seek amendment to the Order by motion.

6 Respectfully submitted this 20<sup>th</sup> day of November, 2012.

7 **MARTIN & BONNETT, P.L.L.C.**

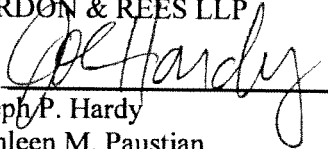
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23 By:   
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27 Las Vegas, NV 89169

28 Attorneys for Defendants

**ORDER**

IT IS SO ORDERED this 21<sup>st</sup> day of November, 2012

  
United States Magistrate Judge

**EXHIBIT A**

**WRITTEN ASSURANCE AND STIPULATION**

\_\_\_\_ declares that:

I reside at \_\_\_\_\_, in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_.

I have read the Stipulated Confidentiality Order of record in *Donald Allbaugh v. California Ironworkers Field Pension Trust, and Board of Trustees of the California Ironworkers Field Pension Trust, Plan Administrator of the California Ironworkers Field Pension Trust* pending in the United States District Court for the District of Nevada.

I fully understand and agree to comply with and be bound by the provisions of the Stipulated Confidentiality Order and hereby submit myself to the jurisdiction of the United States District Court for the District of Nevada, for the purposes of enforcement of the Stipulated Confidentiality Order.

I will keep in confidence, and will not divulge to anyone, other than those permitted to have access under the terms of the Stipulated Confidentiality Order, copy, or use, except solely for the purposes of that action, any documents, testimony, or other information designated as Confidential pursuant to the Stipulated Confidentiality Order.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title